

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1153 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
06/07/2004 in WPMP No. 8998 of 2004 in WP No. 6921 OF 2004 on the file of the
High Court.)

Between:

Kusumanchi Educational Society, Registered No. 552/92, H.No. 3-97, Opp. Bus
Stand Kusumanchi, Khammam District.

..... APPELLANT

AND

- 1.The Government of Andhra Pradesh, Rep. by its Secretary,
Higher Education Department, AP Secretariat, Hyderabad.
- 2.The Board of Intermediate Education, Rep. by its Secretary,
Nampally, Hyderabad.
- 3.Raghava Educational Society (SVS Junior College) Kusumanchi
Khammam District.

.....RESPONDENTS

Counsel for the Appellant: Mr.Srinivasa Rao Bodduluri

Counsel for the Respondent No.1 : G.P. for Higher Education

Counsel for the Respondent No.2: Mr.S.Satyanarayana Prasad.

Counsel for the Respondent No.3: Mr.Vilas Afzal Purkar

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

The challenge in this appeal is to the order passed in the W.P.M.P. moved by the present appellant dismissing its application for interim relief, thereby, restraining the first respondent not to implement G.O.Rt.No. 182, dated: 10.3.2004, and, in that view of the matter, the miscellaneous application filed by the third respondent was dismissed without any further orders.

The appellant has, in the writ petition, questioned the legality and validity of G.O.Rt.No. 182, dated: 10.3.2004, by which, permission was granted to the 3rd respondent to shift the Junior College for girls from Mudigonda village to Kusumanchi village, Khammam District and for conversion of Geetanjali Junior College for Girls to Co-education in relaxation of Rules 14(3) and (5) of the Rules issued in G.O.Ms.No.29, Education (Rules) Department, dated: 5.2.1987.

Learned counsel for the appellant submits that relaxation is in violation of the spirit of the provisions of the Act and the Rules framed thereunder and also violates Section 100 of the Andhra Pradesh Education Act, 1982, which, inter alia, provides that the relaxation, if granted, will be duly notified and published in the official gazette.

We have duly considered the submissions made at Bar.

On the face of it, G.O.Rt. 182 says that power of relaxation has been exercised. Whether this power has or has not been exercised lawfully is subject matter of Writ Petition to be decided subsequently. There is no challenge in the entire Writ Petition that there is no publication or it violates Section 100 of the Education Act. Allowing the prayer made in the miscellaneous application filed by the appellant will have the effect of almost allowing the Writ Petition at this stage, and, inasmuch as, in case, ultimately, Writ Petition is dismissed, it will not be possible to set the things back and compensated, we are of the view that at the most the order which could be passed in such a petition would be only to say that whatever is done pursuant to G.O.Rt.No.182, dated: 10.3.2004 will be subject to the result of the Writ Petition. In

that view of the matter, we partly allow the Appeal, set aside the impugned order, and, direct that all consequential actions pursuant to G.O.Rt.No.182 will be subject to the result of the Writ Petition. No costs.

DEVINDER GUPTA, C.J.

7.9.2004.

C.V.RAMULU, J.

VR.

To

- 1.The Secretary to Government of Andhra Pradesh, Higher Education Department, AP Secretariat, Hyderabad.
- 2.The Board of Intermediate Education, Rep. by its Secretary, Nampally, Hyderabad.
3. Two CCs to Govt. Pleader for Higher Education, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.
5. Raghava Educational Society (S.V.S. Junior College)
Kusumanchi, Khammam District.